



DEPARTMENT OF ENVIRONMENTAL QUALITY  
POLICY AND PROCEDURES

**SUBJECT: ADMINISTRATIVE RULES PROMULGATION**

**Date: April 18, 1997**

**Revision: February 15, 2007**

**Number: 01-004**

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**ISSUE:**

Administrative rule promulgation is an action that the Department of Environmental Quality (DEQ) takes in order to implement a statute. Promulgation of administrative rules is governed by several factors: the scope of the authority provided to the DEQ by the enabling statute; public participation in the rule development process; and the provisions of the Administrative Procedures Act, 1969 PA 306, as amended (Act 306).

The requirements for, and basic procedural description of, rule promulgation are set forth in Act 306 and are outlined in detail in instructions provided by the Department of Labor and Economic Growth's (DLEG) State Office of Administrative Hearings and Rules (SOAHR). Act 306 allows the DEQ to promulgate rules if rules are authorized by statute and the DEQ intends to take action that mandates action on the part of the public. The following procedure expands upon those requirements and sets forth a procedure that the DEQ will use in promulgating administrative rules.

**DEFINITIONS and ACRONYMS:**

**Days:** Calendar days unless otherwise stated.

**Division:** The person/persons delegated the responsibility by the Bureau/Division/Office Chief as applicable. (The term "Division" is being used rather than Bureau/Division/Office for simplification in these procedures.)

**DRL:** The Division Rules Liaison.

**JCAR:** The Michigan Legislature's Joint Committee on Administrative Rules.

**JCAR Agency Report:** Includes a synopsis of the comments made at a public hearing and written comments received before the close of the public comment period, the DEQ's response or action, proof of publication from required newspaper notices, proof of publication in the Michigan Register, and other information as noted on the template.

**JCAR Agency Report Package:** Includes the JCAR Agency Report, the draft rules in ~~strike~~/**bold** format, if modified, and an updated Executive Overview.

**JCAR package:** The SOAHR will prepare the JCAR package for submission to JCAR. The package will include: a transmittal letter to JCAR, one copy of the rule set (~~strike~~/**bold**, if applicable), one copy of the Legislative Service Bureau and SOAHR certificates of approval, one copy of the JCAR Agency Report, and one copy of the SOAHR approved Regulatory Impact Statement.

**LSB:** The Legislative Service Bureau.

**OGS:** The Secretary of State's Office of the Great Seal.

## DEQ POLICY AND PROCEDURES

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**RPAF:** Rulemaking Policy Analysis Form (Attachment E).

**RFR:** The Request for Rulemaking required by the SOAHR (Attachment B).

**RIS:** The Regulatory Impact Statement (Attachment D).

**RAO:** The DEQ's Regulatory Affairs Officer.

**SOAHR:** The State Office of Administrative Hearings and Rules.

[http://www.michigan.gov/cis/0,1607,7-154-10576\\_35738---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10576_35738---,00.html)

**NOTE:** Rules format is 11 or 12 point Arial, with one-inch top, bottom, and right margins, and a 1.25-inch left margin. Follow LSB guidelines (available at [http://www.michigan.gov/cis/0,1607,7-154-10576\\_35738\\_5694---,0.html](http://www.michigan.gov/cis/0,1607,7-154-10576_35738_5694---,0.html)).

**NOTE:** Each Division is the repository for the official rules records and should follow Records Retention and Disposal Schedule, General Schedule 5.15, Administrative Rule Promulgation Records.

### **POLICY:**

The authority for the DEQ administrative rule promulgation must be given by applicable statute. In addition, the DEQ must comply with the provisions of Act 306 and the procedures outlined by the SOAHR regarding rule promulgation.

### **GENERAL PROCEDURES:**

This document outlines two distinct procedures for promulgating rules: Procedure A and Procedure B. Follow Procedure A, beginning on page 3, for all newly proposed administrative rules or for proposed administrative rules that have substantive changes from the current rules.

Follow Procedure B, beginning on page 14, for all proposed administrative rules that are "obsolete or superseded," or that require amendment or rescission "to make obviously needed corrections to make the rule conform to an amended or new statute or to accomplish any other solely formal purpose," according to Section 44(1) of Act 306. According to the statute, these administrative rules can be amended or rescinded without the necessity of meeting the Section 41 notice and hearing requirements or the Section 42 publication requirements, "...if a statement to that effect is included in the legislative service bureau certificate of approval of the rule." MCL 24.244(1)

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**PROCEDURE A: New or Substantively Changed Administrative Rules**

**Responsibility**

**Action**

Division

1. Staff submits the draft RFR\* (Attachment B\*\*) through the Division's chain of command to the Division Chief.

**\*NOTE: Stakeholder meetings may be held in the absence of an approved RFR. However, these meetings should only be to confirm the need for the proposed rules or changes to the rules.**

**\*\*NOTE: Attachments B – J are templates. Attachment A is the index that lists each file name. To access the Microsoft Word templates referenced herein:**

- Click on File/New.
- On the right side of the screen of the new document pane, click on "General Templates."
- Click on the REGREFORM tab; if the REGREFORM tab is not visible, click on the "More" tab and then click on the REGREFORM folder.
- Select the appropriate template.

Division Chief

2. Reviews the RFR and informally discusses and updates the appropriate Deputy Director.
  - A. If the RFR is approved, notifies DRL to proceed with rule promulgation.
  - B. If the RFR is not approved, the RFR is returned to the DRL with an explanation. Return to Step 1.

Division

3. If the RFR is approved, the DRL submits an electronic copy of the RFR to the RAO.

RAO

4. Reviews the RFR and submits the RFR electronically to the SOAHR.

SOAHR

5. Reviews the RFR.
  - A. If the RFR is approved, the SOAHR posts the receipt date on the SOAHR Web site, assigns a tracking number, enters the approval date on the SOAHR Web site, returns an electronic copy of the RFR to the RAO with approval to proceed with rule

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**PROCEDURE A: New or Substantively Changed Administrative Rules**

**Responsibility**

**Action**

SOAHR (continued)

development, and sends a copy of the RFR to JCAR.

The SOAHR tracking number should appear on all further rule package correspondence.

- B. If the RFR is not approved or more information is required, the SOAHR returns a copy of the RFR to the RAO with an explanation.

RAO

- 6. Receives the RFR from the SOAHR.

- A. If the RFR is approved, e-mails a copy of the approval to the DRL for rule development.
- B. If the RFR is not approved, contacts the DRL and forwards a copy of the RFR to the DRL for the official files. Return to Step 1.

Division

- 7. Drafts the rules with informal public participation, as appropriate, within six months of RFR approval. A 90-day extension to the rules drafting period can be obtained from the SOAHR if necessary (see Step 8 B.). The DRL, or the appropriate staff, notifies the RAO of all external workgroup meetings.
- 8. Prepares one of the following within six months of the RFR approval\*:
  - A. If ready for the SOAHR's informal review, skip to Step 9.

OR

- B. If not ready for the SOAHR's informal review by the six-month deadline, requests a 90-day extension to the six-month rule drafting period if a draft is anticipated within the extension period. A request must be made at least one week in advance of the six-month deadline by e-mail to the RAO, who will forward it to the SOAHR.

OR

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**PROCEDURE A: New or Substantively Changed Administrative Rules**

**Responsibility**

**Action**

Division (continued)

- C. If no rules have been drafted within the first six months and a 90-day extension would not result in draft rules, prepares a transmittal letter (Attachment C), requesting withdrawal of the RFR and sends the transmittal letter electronically to the RAO.

**\*NOTE: The SOAHR will withdraw the RFR if either the rules or an extension request is not received by the six-month deadline.**

- 9. When ready for the SOAHR to do an informal review, prepares and transmits to the RAO:

- A. A paper copy of an Executive Overview (Attachment F), in memorandum format signed by the Division Chief, including signature blocks for the Director and Deputy Director, detailing the purpose and content of the rules, any issues of contention and how the issues have been addressed (for the Director's review, not sent to the SOAHR).
- B. A paper and electronic copy of the RIS (Attachment D).
- C. A paper and electronic copy of the RPAF (Attachment E).
- D. A paper and electronic copy of the draft rules in ~~strike~~/**bold** format.

RAO

- 10. Reviews the Executive Overview, the RIS, the RPAF, and the draft rules. The package is then sent to the appropriate Deputy Director for review with the Director.

- A. If the Executive Overview, the RIS, the RPAF, and the draft rules are approved, the RAO electronically sends the RIS, RPAF, and draft rules to SOAHR and copies the DRL on the e-mail to let them know that the package has been submitted.

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**PROCEDURE A: New or Substantively Changed Administrative Rules**

**Responsibility**

**Action**

RAO (continued)

- B. If the Executive Overview, the RIS, the RPAF, and the draft rules are not approved, the RAO returns the package to the DRL for appropriate action. Return to Step 9.
- C. The paper copies containing the signed Executive Overview are returned to the DRL to be placed in the Division's file.

SOAHR

- 11. Reviews the draft rules, the RIS, and the RPAF.
  - A. If approved, forwards a copy of the approved draft rules and the approved RIS to the JCAR, sends the package to the LSB for informal review, and provides the RAO with a signed copy of the RIS.
  - B. If not approved, notifies the RAO of the basis for disapproval.
  - C. If revisions are needed, notifies the RAO and requests revisions be made and resubmitted before the package is sent to LSB for informal review.

RAO

- 12. Notifies the DRL of the results of the informal review of the draft rules, the RIS, and the RPAF and requests revisions if necessary.
  - A. If approved, forwards a signed electronic copy of the SOAHR's approval of the RIS to the DRL for Division's files.
  - B. If not approved or more information is necessary, forwards the SOAHR's disapproval or request for information to the DRL. Return to Step 9.

**NOTE: The Division cannot proceed without an approved RIS and the SOAHR's approval of the draft rules.**

LSB

- 13. Reviews the draft rules approved by SOAHR. Any LSB editorial revisions will be marked on the copy and returned to SOAHR.

SOAHR

- 14. Forwards the draft rules with LSB informal approval and editorial revisions to the RAO.

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**Responsibility**

**Action**

RAO

15. Provides the DRL with the LSB informal approval of the draft rules and editorial revisions, if any.

DRL

16. Prepares and transmits to the RAO an electronic copy of the revised draft rules in ~~strike~~/**bold** format incorporating the LSB revisions.

RAO

17. Reviews revised draft rules to ensure that the LSB revisions were made and then forwards to the SOAHR.

DRL

18. Prepares the Request for Publication in the Michigan Register at least one week prior to the SOAHR's deadline for submission of documents and forwards the following materials to the RAO:

A. An electronic copy of the Notice of Public Hearing (Attachment G).

B. An electronic copy of the draft rules in ~~strike~~/**bold** format for publication in the Michigan Register.

C. If the draft rules are more than 200 pages, the Division may request the SOAHR publish a synopsis of the rules including information on how to obtain a complete copy of the proposed rules from the agency at no cost. With the synopsis, submit a memo of request to the SOAHR showing that the cost savings achieved by using the synopsis was balanced against the cost to the regulated community and public of not having access to the full rule text in the Michigan Register.

RAO

19. Reviews the Notice of Public Hearing and draft rules and forwards to the SOAHR electronically with a copy to the DRL.

SOAHR

20. Publishes the Notice of Public Hearing and the draft rules in the Michigan Register, and forwards, within seven days of receipt, a copy of the Notice of Public Hearing and draft rules

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**PROCEDURE A: New or Substantively Changed Administrative Rules**

**Responsibility**

**Action**

to JCAR. The notice must appear before the public hearing.

**NOTE:** The SOAHR publishes the Michigan Register twice a month. The Michigan Register is available at [http://www.michigan.gov/cis/0,1607,7-154-10576\\_35738\\_40280---,00.html](http://www.michigan.gov/cis/0,1607,7-154-10576_35738_40280---,00.html).

Division

21. Publishes the Notice of Public Hearing in three newspapers of general circulation, at least one of which is in the Upper Peninsula, at least ten days and no more than 60 days in advance of the public hearing.

22. Requests the DEQ Calendar Editor to post the Notice of Public Hearing in the DEQ Calendar. Efforts should be made to provide as much advance notification of the public hearing as possible.

DEQ Calendar Editor

23. Posts the Notice of Public Hearing in the DEQ Calendar.

Division

24. Conducts a public hearing\*. The SOAHR's signed and approved RIS and the proposed rules must be available to the public at the hearing. The public hearing must be recorded by a stenographer or an audio or video tape recording device.

**\*NOTE:** Note that the JCAR package must be delivered to the SOAHR within one year after the last public hearing. If this one-year deadline is not met, the JCAR will return the JCAR package and the Division will need to hold another public hearing.

25. The Division determines if modification of the rules is necessary, based on comments received during the public comment period.

A. If the rules are not modified or modifications are made that do not require another public hearing, prepares the JCAR Agency Report (Attachment H).



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**Responsibility**

**Action**

Division (continued)

Modifications not requiring a public hearing include:

1) Nonsubstantive changes (minor technical changes).

2) Changes made in response to public comment.

3) Changes requested by SOAHR due to conflict with statute.

B. If the rules are substantively modified (the intent of the rule has changed), return to Step 8.

26. Transmits an electronic copy and a paper copy of the JCAR Agency Report package that includes the following to the RAO:

A. The JCAR Agency Report that includes the notice of public hearing newspaper ads.

B. The rules (~~strike~~**bold** format), if modified.

C. The rules in non ~~strike~~**bold** format.

D. An updated Executive Overview in memorandum format including signature blocks for the Deputy Director and Director (for the Director's review, not sent to the SOAHR).

RAO

27. After review, sends the paper JCAR Agency Report package to the appropriate Deputy Director for review and approval by the Director. Once approved, submits the JCAR Agency Report and draft rules electronically to the SOAHR and notifies the DRL by e-mail that the package has been submitted.\*

**\*NOTE:** Textual changes to the rules as a result of public comment must be approved by the SOAHR before proceeding.

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**Responsibility**

**Action**

SOAHR

28. Notifies the RAO of approval, request for more information, or rejection of the rules. If the JCAR Agency Report package is approved, transmits rules to LSB for formal certification.

LSB

29. Formally reviews the rules.

A. If the rules are formally certified, sends the certification and rules to the SOAHR for legal certification.

B. If the rules are not certified, the rules are returned to the RAO with an explanation.

SOAHR

30. Notifies the RAO by e-mail of the LSB's formal certification of the rules. If the rules are not certified, notifies the RAO and discusses the comments with the Division, the LSB, and the RAO as necessary.

31. Formally reviews the rules.

A. If the rules are certified, sends copies of the LSB and the SOAHR certifications to the RAO electronically.

B. If the rules are not certified, returns the rules to the RAO with an explanation.

RAO

32. Upon notification of the LSB's and SOAHR's formal review of the rules:

A. If the rules are certified by the SOAHR and LSB, forwards the electronic copies of the certifications to the Division.

B. If the rules are not certified, returns the rules to the DRL for modification.

SOAHR

33. Prepares the JCAR package and transmits to JCAR:

A. A transmittal letter to the JCAR.

B. One copy of the JCAR Agency Report.

C. One copy of the rules (~~strike~~**bold** version).

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**Responsibility**

**Action**

SOAHR (continued)

D. One copy each of the LSB and the SOAHR certifications.

E. One copy of the RIS.

JCAR

34. After receipt of the JCAR package, the JCAR will have 15 session days to review the proposed rules.

A. The JCAR may file a "notice of objection" to a proposed rule within that period with the approval of a concurrent majority of its members if one or more of the following conditions is met:

- 1) The agency lacks statutory authority for the rule.
- 2) The agency is exceeding the statutory scope of its rulemaking authority.
- 3) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.
- 4) The rule is in conflict with state law.
- 5) A substantial change in circumstances has occurred since the enactment of the law upon which the proposed rule is based.
- 6) The rule is arbitrary and capricious.
- 7) The rule is unduly burdensome to the public or to a licensee licensed by the rule.

B. If the JCAR elects to hold a hearing on a proposed rule, notifies the RAO who will ensure that adequate DEQ staff is present at the hearing to explain and defend the rule.

C. If no notice of objection is adopted within the 15-day period or if JCAR fails to meet within the 15 session days, the SOAHR can

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**Responsibility**

**Action**

JCAR (continued)

file the rules with the OGS. JCAR may also vote to waive the 15-session day period, which allows the SOAHR to file the rules immediately.

D. If a notice of objection is adopted within the 15-session day period for the JCAR consideration, bills will be introduced in both chambers of the Legislature and placed immediately on the calendars. The bills must either:

- 1) Rescind the rule upon its effective date.
- 2) Repeal the statutory provision under which the rule was authorized.
- 3) Stay the rule's effective date for up to one year.

E. If the legislation is passed by both chambers of the Legislature and presented to the Governor within the 15-session day period, the rules do not become effective unless the legislation is vetoed by the Governor.

RAO

35. Upon confirmation that the rule package has been filed with the JCAR, the RAO informs the DRL of the delivery date and requests the DRL to prepare the formal rule adoption package for the SOAHR.

Division

36. Prepares a formal rule adoption package for the Director's signature and transmits one paper and one electronic copy of the following to the RAO within five business days of the receipt of the request:

- A. The Certificate of Adoption (Attachment I).
- B. A copy of the rules in non-~~strike~~**bold** format for reference.
- C. A transmittal letter from the Director to SOAHR (Attachment J).

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**PROCEDURE A: New or Substantively Changed Administrative Rules**

**Responsibility**

**Action**

RAO

37. Requests the appropriate Deputy Director to review and the Director to formally adopt the rules using the Certificate of Adoption.

Director

38. Following review by the appropriate Deputy Director, formally adopts the rules and provides a signed Certificate of Adoption and transmittal letter to the RAO.

RAO

39. Submits the transmittal letter and the Certification of Adoption to the SOAHR and notifies the DRL by e-mail.

SOAHR

40. If the legislation described in Step 32. D. is not adopted, the SOAHR may file the rules with the OGS and notify the RAO of this action. Rules shall take effect immediately – unless a later date is indicated within the text of the rules.

41. Upon confirmation of the filing of the rules, transmits an electronic copy of the rules, single-spaced, double-sided, Arial 11 or 12 point font, indicating the date of filing in the first line of the rules, to the OGS.

RAO

42. Notifies the Division by e-mail of the SOAHR's filing date of the rules with OGS.

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### **PROCEDURE B: Section 44(1) of Act 306 - Exceptions to Requirements to Rules Procedures**

#### **Responsibility**

#### **Action**

Division

1. Staff submits the draft RFR form (Attachment B\*) through the Division's chain of command to the Division Chief, noting that the Division wants the rules promulgated under Section 44(1) of Act 306, and the purpose of the proposed rules (to amend or rescind). If possible, a copy of the proposed rules should be attached at this time.

**\*NOTE: Attachments B-J are templates. Attachment A is the index that lists each template file name. To access the templates in Microsoft Word:**

- **Click on File/New.**
- **On the right side of the screen of the new document pane, click on "General Templates."**
- **Click on the REGREFORM tab; if the REGREFORM tab is not visible, click on the "More" tab and then click on the REGREFORM folder.**
- **Select the appropriate template.**

Division Chief

2. Reviews the RFR and informally discusses and updates the appropriate Deputy Director.
  - A. If the RFR is approved, notifies the DRL to proceed with rule promulgation.
  - B. If the RFR is not approved, the RFR is returned to the DRL with an explanation. Return to Step 1.

DRL

3. If the RFR is approved, the DRL submits an electronic copy of the RFR to the RAO.

RAO

4. Reviews the RFR and submits the RFR electronically to the SOAHR.

SOAHR

5. Reviews the RFR, assigns a tracking number, sends a copy of the RFR to the JCAR, and posts the receipt date on the SOAHR Web site.
  - A. If the RFR is approved, the SOAHR enters the approval date on the SOAHR Web site, and returns a copy of the RFR to the RAO with approval to proceed with rule

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**PROCEDURE B: Section 44(1) of Act 306 – Exceptions to Requirements to Rules Procedures**

**Responsibility**

**Action**

development. The SOAHR tracking number should appear on all further rule package correspondence.

- B. If the RFR is not approved or more information is required, the SOAHR returns a copy of the RFR to the RAO with an explanation.

RAO

- 6. Receives the RFR from the SOAHR.
  - A. If the RFR is approved, forwards a copy to the Division for rule development.
  - B. If the RFR is not approved, contacts the DRL and forwards a copy of the RFR to the DRL for the Division's official files. Return to Step 2. B.

Division

- 7. Upon notification of the SOAHR's approval of the RFR by the RAO, prepares the formal review package and transmits to the RAO an electronic copy of the rules in ~~strike~~**bold** format.

RAO

- 8. Submits the rules electronically to the SOAHR.

SOAHR

- 9. Formally reviews the rules under Section 44(1) of Act 306 and responds to the RAO by either: granting approval to proceed, disapproving, or requesting additional information.
  - A. Sends notification to the RAO.
  - B. Provides a copy of the approved draft rule language to JCAR.
  - C. Submits the rules to the LSB for formal certification and notifies the RAO that the rules have been submitted.
  - D. If SOAHR determines the rules are outside the authorization of Section 44(1) of Act 306, instructs the RAO to follow the procedure for new or substantially changed rules.

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**PROCEDURE B: Section 44(1) of Act 306 – Exceptions to Requirements to Rules Procedures**

**Responsibility**

**Action**

LSB

10. Upon formal certification, forwards the certified rules to the SOAHR for formal legal certification.

SOAHR

11. Upon receipt of the LSB formal certification, SOAHR sends copies of the LSB and the SOAHR certification to the RAO.

RAO

12. Upon receipt of the formal LSB and SOAHR certifications, informs the DRL of the date of receipt, forwards copies to the DRL, and requests the DRL to prepare the formal rule adoption package for the SOAHR.

DRL

13. Upon notification of SOAHR and LSB certifications, prepares the formal rule adoption package for the Director's signature and transmits to the RAO within five business days of the receipt of the request:

A. The Certificate of Adoption (Attachment I).

B. A reference copy of the rules in non-~~strike~~**bold** format.

C. A transmittal letter (Attachment J) from the Director to SOAHR.

SOAHR

14. Files the rules immediately. The rules shall take effect immediately after filing, unless a later date is indicated within the text of the rules.

15. Upon confirmation of the filing of the rules, transmits an electronic copy of the rules, single-spaced, double-sided, Arial 11 or 12 point font, indicating the date of filing in the first line of the rules, to the OGS.

RAO

16. Notifies the DRL by e-mail of the SOAHR's filing date of the rules with the OGS.

Approved: \_\_\_\_\_ Date: \_\_\_\_\_



## RULE PROMULGATION TIME LINE

<u>Action</u>	<u>Time</u>
RFR Submitted and Approved	3 days
Agency Drafts Rules NOTE: The SOAHR will withdraw the RFR if the first draft of the proposed rules are not received within six months of the RFR approval or an extension request is not received.	Dependant on Issue (Up to 6 months and 90-day extension if needed)
SOAHR Informal Review	4 weeks
LSB Informal Review	4 weeks
Incorporate Informal Changes/ Prepare Publication Materials	3 weeks
Publication/Notice Hearing	3 weeks
Response to Public Hearing	3-5 weeks
DEQ/Executive Division/SOAHR approves changes after Public Hearing	3 weeks
LSB Formal Certification	2 weeks
SOAHR Formal Certification	1 week
Prepare/Submit to the JCAR	2 weeks
JCAR Review (Director Adopts Rules within ten days of sending to the JCAR)	15 session days
File Rules with Secretary of State	10 days
Rules go into effect	Immediately

**TOTAL TIME Procedure A**

**1 YEAR – 1.5 YEARS**

## ATTACHMENT A

### Template Directory for Rule Implementation\*

Attachment	Template Name	File Name
<b>Attachment B:</b>	Request for Rulemaking	RFR
<b>Attachment C:</b>	Withdrawal of Request for Rulemaking Transmittal Letter to SOAHR	WITHDRAWRFR
<b>Attachment D:</b>	Regulatory Impact Statement	RIS
<b>Attachment E:</b>	Rulemaking Policy Analysis Form	RPAF
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<b>Attachment G:</b>	Notice of Public Hearing	NOTICE
<b>Attachment H:</b>	JCAR Agency Report	JCAR Agency Report
<b>Attachment I:</b>	Certificate of Adoption	ADOPTCT
<b>Attachment J:</b>	Transmittal Letter to SOAHR	ADOPTLET
<p><b>*NOTE:</b> Attachments B through J are form documents. To access these templates in Microsoft Word:</p> <ul style="list-style-type: none"> <li>• Click on File/New.</li> <li>• On the right side of the screen of the new document pane, click on "General templates."</li> <li>• Click on the REGREFORM tab; if the REGREFORM tab is not visible, click on the "More" tab and then click on the REGREFORM folder.</li> <li>• Select the appropriate template.</li> </ul>		

## ATTACHMENT B

### State Office of Administrative Hearings and Rules

611 W. Ottawa; PO Box 30695

Lansing, MI 48909-8195

Phone (517) 335-2484 (517) 335-6696

#### REQUEST FOR RULEMAKING (RFR)

In accordance with MCL 24.239(1): "Before initiating any changes or additions to rules, an agency shall file with the State Office of Administrative Hearings and Rules a request for rulemaking." The agency will complete this form and send an electronic copy to the SOAHR at [soahr\\_rules@michigan.gov](mailto:soahr_rules@michigan.gov). The SOAHR will review the request for rulemaking and send its response to the agency (see last page).

Date of request	
Department or agency	
Bureau/Division	
Address	
Contact person	
Telephone	
FAX	

**Title of proposed rule(s) or rule set:**

--

**Rule number(s) or rule set range of numbers:**

--

**Estimated timetable for completion:**

--

**Brief description of the proposed rule(s):**

--

**State or federal statutory or regulatory basis for this proposed rule(s)** [include statutory references and public acts, as necessary]:

--

**Problem the proposed rule intends to address/solve:**

--

**Reviewed by the following Departmental Regulatory Affairs Officer (RAO):**

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-----  
↓ To be completed by the SOAHR ↓

**Reviewed by SOAHR Representative:**

**SOAHR Response:**

Approval		
Disapproval		Explain:
More information needed		Explain:
Date		

## ATTACHMENT C



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



STEVEN E. CHESTER  
DIRECTOR

[insert mailing date]

Ms. Norene Lind, Acting Administrative Rules Manager  
State Office of Administrative Hearings and Rules  
Department of Labor and Economic Growth  
Ottawa Building - Fourth Floor  
611 West Ottawa  
Lansing, Michigan 48933-1070

Dear Ms. Lind:

SUBJECT: Withdrawal of Request for Rulemaking (RFR) for Administrative Rules  
Promulgated Pursuant to Part [insert Part number], [insert Part title], of the  
Natural Resources and Environmental Protection Act, 1994 PA 451, as  
Amended (Act 451), SOAHR [insert SOAHR number]EQ

The Department of Environmental Quality (DEQ) requests formal withdrawal of the RFR  
for the above referenced administrative rules.

The DEQ's [insert the division name] anticipates the need for new or modified rules to  
accomplish the objective of the RFR; however, draft rules are not expected in the near  
future. As soon as progress on developing draft rules is anticipated, we will submit  
another RFR. [If the division does not wish to proceed further with the rules, remove  
this paragraph, but explain why they are being withdrawn in the first paragraph.]

If you have any questions, please contact me.

Sincerely,

[insert the current RAO's name]  
Acting Regulatory Affairs Officer  
517-

cc: Mr. Steven E. Chester, Director, DEQ  
M[r/s.] [insert Deputy Director's name], Deputy Director, DEQ  
M[r/s.] [insert Division Chief's name], DEQ  
M[r/s.] [insert Division Rule Liaison's name], DEQ  
M[r/s.] [insert Division technical staff's name], DEQ  
cc/enc: [insert Division acronym], File SOAHR [insert SOAHR number]EQ

## ATTACHMENT D

### State Office of Administrative Hearings and Rules

PO Box 30695; 611 W. Ottawa Street

Lansing, MI 48909-8195

Phone (517) 335-2484 FAX (517) 335-6696

## REGULATORY IMPACT STATEMENT

The department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the State Office of Administrative Hearings and Rules no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions may be made to [soahr\\_rules@michigan.gov](mailto:soahr_rules@michigan.gov). The SOAHR will review the regulatory impact statement and send its response to the agency (see last page).

### A. GENERAL

1. SOAHR #, title, and rule numbers (or rule set range of numbers):

2. Identify the relationship of the rule to state and federal statutes and regulations:

3. Identify how the rule compares to an industry standard set by a state or national licensing organization.

4. Is the rule more restrictive or less restrictive than the federal rule or industry standard?

5. What are the sanctions on the state if the rule is not adopted?

### B. GOAL OF RULE:

6. Identify the conduct and its frequency of occurrence that the rule is designed to change:

7. Identify the harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

8. Estimate the change in the frequency of the targeted conduct expected from the rule change:

9. Identify any alternatives to regulation by rule that would achieve the same or similar goals:

10. Discuss the feasibility of establishing a regulatory scheme within the industry independent of state intervention:

**C. COSTS TO GOVERNMENT UNITS:**

- 11. Estimate the cost of rule imposition on the department or agency promulgating the rule, including the costs of equipment, supplies, labor, and increased administrative costs for initial imposition of the rule and any ongoing monitoring:**

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- 12. Estimate the cost of rule imposition on other state or local governmental agencies, including the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring:**

--

**D. COSTS TO REGULATED INDIVIDUALS:**

- 13. Estimate the actual statewide compliance costs of the rule to individuals, including the costs of education, training, application fees, examination fees, license fees, new equipment or increased labor, exclusive of those costs identified in section C above:**

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- 14. Identify any compliance costs requiring reports and the estimated cost of their preparation by individuals who would be required to comply with the rule:**

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- 15. Estimate the cost of any legal, consulting, and accounting services and any other administrative expenses individuals will incur in complying with the rule:**

--

- 16. Estimate the number of individuals the rule affects:**

--

- 17. Will the rule have a disproportionate impact on individuals based on their geographic location?**

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**E. COSTS TO BUSINESSES:**

- 18. Estimate the actual statewide compliance costs of the rule to specifically include small businesses, including the costs of equipment, supplies, labor, training, application fees, permit fees, supervisory costs, exclusive of those identified in sections C and D above:**

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- 19. Identify any reports the rule requires and the estimated cost of their preparation by businesses; specifically include small businesses:**

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- 20. Estimate the cost of any legal, consulting, and accounting services and any other administrative expenses businesses will incur in complying with the rule; specifically include small businesses:**

--

- 21. Estimate the number of businesses the rule affects:**

--

**22. Identify any disproportionate impact the rule may have on small businesses because of their size or geographic location:**

--

**23. Discuss the ability of small businesses to absorb the costs estimated above without suffering economic harm and without adversely affecting competition in the marketplace:**

--

**24. Estimate the cost of the agency enforcing or administering the rule to exempt or set lesser standards for small businesses:**

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**25. Determine the impact on the public interest of exempting or setting lesser standards for small businesses:**

--

**26. Explain how the agency reduced the economic impact of the rule on small businesses, as MCL 24.240 requires, or discuss why such a reduction was not feasible:**

--

**27. Discuss whether and how the agency has involved both industry and small business in the development of the rule:**

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**F. BENEFITS OF RULE:**

**28. Estimate the primary and direct benefits of the rule, including but not limited to the rule's impact on business competitiveness, the environment, worker safety, and consumer protection.**

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**29. Estimate the secondary or indirect benefits of the rule, including spin-off benefits to business, the environment, workers, and consumers:**

--

**30. Are the direct and indirect benefits of the rule likely to justify the cost?**

--

**31. Estimate the cost reductions to government, individuals, and businesses as a result of the rule:**

--

**32. Estimate the increased revenues to state or local government units as a result of the rule:**

--

**33. Identify the sources you relied upon in calculating your cost and benefit responses:**

--

**Reviewed by Department Regulatory Affairs Officer:**

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**Reviewed by SOAHR Representative:**

--

**SOAHR Response:**

Approval		
Disapproval		Explain:
More information needed		Explain:
Date:		SOAHR #:

## ATTACHMENT E

State Office of Administrative Hearings and Rules  
PO Box 30695; 611 W. Ottawa Street  
Lansing, MI 48909-8195  
Phone (517) 335-2484 FAX (517) 335-6696

### Rulemaking Policy Analysis Form

The department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the State Office of Administrative Hearings and Rules when submitting the Regulatory Impact Statement. Submissions may be made to [soahr\\_rules@michigan.gov](mailto:soahr_rules@michigan.gov).

1. Date:

--

2. SOAHR Rule set # and name:

--

3. Brief summary of rule set:

--

4. What groups and/or individuals support this rule set?

--

5. What are the arguments in support of this rule set?

--

6. What groups and/or individuals oppose this rule set?

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7. What are the arguments against this rule set?

--

8. Name of departmental representative completing this form:

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Reviewed by SOAHR Representative:

--

SOAHR Response:

More information needed		Explain:
Date:		SOAHR #:



## ATTACHMENT F

### MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

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#### INTEROFFICE COMMUNICATION

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TO: Steven E. Chester, Director

FROM: [insert Division chief's name, name of Division, and signature]

DATE: [insert date]

SUBJECT: Executive Overview  
Administrative Rules - [insert Part number and title]  
[insert SOAHR tracking number]

The Department of Environmental Quality (DEQ), [insert division name] is proposing an [addition, amendment, or rescission] of administrative rules to the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (MCL 324.101 to 324.90106) by [adding, amending, or rescinding] [insert Part number and title]. This Executive Overview has been prepared in accordance with the DEQ Administrative Rule Promulgation Policy and Procedures.

#### Purpose of the Proposed Revisions

[insert the problem/issue rule amendments intend to address]

#### Contents of the Rule

[insert a synopsis of the rule addition or amendment]

#### Next Steps

The Request for Rulemaking was approved on [insert date]. Attached please find a copy of the Request for Rulemaking, Regulatory Impact Statement, Rulemaking Policy Analysis, and draft rules.

If you have any further questions, please contact me at [insert division chief's phone number].

Attachments

cc: [insert deputy director's name], Deputy Director  
[insert RAO's name], Acting Regulatory Affairs Officer  
[insert division rule liaison's name], DEQ  
[insert division technical staff's name], DEQ

Approved:

Approved:

\_\_\_\_\_  
[insert deputy director's name], Deputy Director

\_\_\_\_\_  
Steven E. Chester, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## ATTACHMENT G

### NOTICE OF PUBLIC HEARING DEPARTMENT OF ENVIRONMENTAL QUALITY [insert division name]

The Michigan Department of Environmental Quality (DEQ), [insert division name], will conduct a public hearing on proposed administrative rules promulgated pursuant to Part [insert Part number], [insert title of Part], of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451) [or insert appropriate act]; R [insert rule number(s)]. These rules [provide a brief description of the proposed rule and the problem/issue it intends to address].

The public hearing will be held on [insert date], at [insert time], in the [insert hearing location and address of location].

Copies of the proposed rules (SOAHR [insert rule number]EQ) can be downloaded from the Internet at: [insert division web site address if rules are posted on division web site and/or any other means to access the rules]. These rules can also be downloaded from the Internet through the State Office of Administrative Hearings and Rules at <http://www.michigan.gov/orr>. Copies of the rules may also be obtained by contacting the Lansing office at:

[insert division name]  
Michigan Department of Environmental Quality  
[insert division P.O. Box address]  
Lansing, Michigan 48909-[insert 4-digit extension]  
Phone: [insert division phone number]  
Fax: [insert division fax number]  
[OPTIONAL] E-Mail: [insert e-mail address]

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by [insert date].

Persons needing accommodations for effective participation in the meeting should contact the [insert division name] at [insert phone number] one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by [insert reference to the statutory authority under which the action is proposed] and Executive Order 1995-18 [or use applicable Executive Order]. These rules will become effective seven days after filing with the Secretary of State. [Insert proposed effective date if other than seven days after filing.]

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[insert Division Chief's name], Chief  
[insert Division name]

## ATTACHMENT H

Agency Report to the  
**JOINT COMMITTEE ON ADMINISTRATIVE RULES**

This form must be completed by the department/agency that has the statutory authority for promulgating the rules. Please send an electronic copy of this form to the State Office of Administrative Hearings and Rules (SOAHR) at [soahr\\_rules@michigan.gov](mailto:soahr_rules@michigan.gov). The SOAHR will review the document, the newspaper advertisements, and the corresponding rules prior to completing the legal certification of the rules. Please be sure to send to the SOAHR proofs of publication for the three newspaper advertisements required by MCL 24.242(1). You may mail them or send them as a scanned attachment.

**Department**

**Division/agency/bureau:**

**Rule set number (as assigned by SOAHR)**

**Title of rules:**

**1. Name, address, FAX and phone numbers of agency contact person:**

**2. Purpose for the proposed rules and background:**

**3. Summary of proposed rules:**

**4. Name of newspapers and date of publication in newspapers (minimum 3 newspapers of general circulation, representing different parts of the state, one of which must be located in the Upper Peninsula):**

**5. Time, date, location and duration of public hearing:**

**6. Date of publication of rules and public hearing notice in *Michigan Register*:**

**7. Agency representative(s) attending hearing (include agency name and title of representative[s]):**

**8. Names, organizations and (complete) addresses of persons attending the hearing:**

**9. Persons submitting letters, comments and testimony of support:**

**10. Persons submitting letters, comments and testimony of opposition:**

**11. Summary of suggestions to modify proposed rules:**

**Name of person completing this report:**

**Date report completed:**

## ATTACHMENT I

### CERTIFICATE OF ADOPTION

I, Steven E. Chester, Director of the Department of Environmental Quality, do formally adopt the attached administrative rules, R [insert applicable regulatory citations] by amending R [insert applicable regulatory citations]; by adding R [insert applicable regulatory citations]; and by rescinding R [insert applicable regulatory citations] of the Michigan Administrative Code.

These rules are adopted pursuant to sections [insert applicable statutory citations] of Part [insert Part number], [insert Part name], of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, [or insert appropriate act] and Executive Order 1995-18 [or use applicable Executive Order].

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven E. Chester, Director

SOAHR [insert SOAHR number]EQ

## ATTACHMENT J



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



STEVEN E. CHESTER  
DIRECTOR

[insert mailing date]

Ms. Norene Lind, Acting Administrative Rules Manager  
State Office of Administrative Hearings and Rules  
Department of Labor and Economic Growth  
Ottawa Building - Fourth Floor  
611 West Ottawa  
Lansing, Michigan 48933-1070

Dear Ms. Lind:

SUBJECT: Certificate of Adoption for Administrative Rules Promulgated Pursuant to Part [insert Part number], [insert Part title], of the Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended (Act 451), SOAHR [insert SOAHR number]EQ

The Certificate of Adoption for the administrative rules promulgated pursuant to Part [insert Part number] of Act 451 is being forwarded to you, along with a reference copy of the administrative rules, in accordance with the provisions of Executive Order 2005-1 and the January 5, 1996, memorandum from the former Office of Regulatory Reform. These rules [provide a brief description of proposed rule and the problem/issue it intends to address].

The rules were certified by the Legislative Service Bureau on [insert date], and were formally approved by your office on [insert date]. The rules were delivered to the Joint Committee on Administrative Rules on [insert date].

If you have questions or comments regarding the rule changes, please contact M[r/s]. [insert the current RAO's name], [if required insert the word: Acting] Regulatory Reform Officer, at [insert phone number], or you may contact me.

Sincerely,

Steven E. Chester  
Director  
517-373-7917

Enclosures

cc: Mr. [insert appropriate Deputy Director's name], Deputy Director, DEQ  
M[r/s]. [insert RAO's name], [if required, insert the word: Acting] Regulatory Affairs  
Officer, DEQ  
M[r/s]. [insert Division Chief's name], DEQ  
M[r/s]. [insert Division Rule Liaison's name], DEQ  
M[r/s]. [insert Division technical staff's name], DEQ  
cc/enc: [insert Division acronym], SOAHR [insert SOAHR number]EQ File